



## Arizona Ombudsman-Citizens' Aide

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May 12, 2006

Members of the Arizona Legislature

The Honorable Janet Napolitano, Governor

Pursuant to A.R.S. § 41-1376, I have the honor of submitting my annual report on the performance of our office during calendar year 2005.

This is our tenth annual report and we hope it paints a picture of what our office does for the people of Arizona. As in previous reports, we have included a generous sampling of the kinds of problems that citizens bring to us and how we responded to them. We have also presented information that statute directs us to provide to the legislature, governor and public.

Our mission is to improve the effectiveness, efficiency and responsiveness of state government by receiving public complaints, investigating the administrative acts of state agencies and, when warranted, recommending fair and appropriate remedy.

Most of our calls come directly from citizens, but we also receive quite a few referrals from members of the legislature, governor's office, state agencies, and community organizations. Although we generally don't intervene in workplace grievances, this year we investigated several complaints from state employees who felt their agency was treating them unfairly. Our services are confidential and we do not charge a fee. We take inquiries on the phone, in person, by FAX, mail and e-mail. We don't have any forms to fill out and try to make our interaction with people as simple, straightforward and unbureaucratic as possible.

Everyone knows that our state is growing at a phenomenal rate. Like other agencies, our case load keeps increasing. This year we handled 3,790 complaints and inquiries which is a new record.

*Pat Shannahan*  
*Ombudsman-Citizens' Aide*

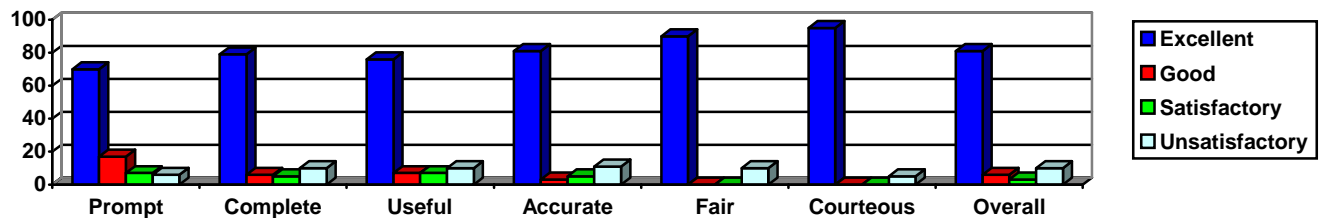
## Customer Satisfaction Survey

It is important for us to receive feedback from the citizens we help so that we can evaluate our performance, correct shortcomings and improve our service. One way we get feedback is through our customer satisfaction survey. The survey measures how well we are accomplishing six standards that we developed in our strategic plan. These standards are:

- Respond **promptly** to citizen inquiries.
- Provide as **complete** a response as possible.
- Provide **useful** solutions to citizens.
- Provide **accurate** response to citizen complaints.
- Treat everyone **fairly**.
- Treat everyone **with courtesy and respect**.

The following chart and comments summarize the results of the survey for calendar year 2005:

### Customer Satisfaction Survey Results -- Percent



### Selected Survey Comments From the Past Year

I'm very thankful for your help. I've never seen anyone get results so fast!

After dealing with another state agency for months with mounting frustration, it was a pleasure to talk with someone who listened.

Thank you so much for your help - you did in two weeks what I've been trying to do for over two years.

We need more people as caring and courteous as your organization. Thank you again for caring and helping.

I never knew this person was out there to help and the help was immediate and effective! Thanks.

She got more information from Revenue in 5 days than they gave me in 8 months.

Ellen is very efficient in her duties and very helpful. A special thanks. She should be recognized for her efforts!

Thanks Carmen for your help.

Kristin did a super job!!

Joanne was very helpful and courteous.

This is the first time that somebody listened to me after all this year that I had been with this big situation with CPS and my son.

I was highly impressed on the way my situation was handled so promptly and professionally. SEMPER FI!!

Without Kristin's help, I am sure that my difficulties would not have been as satisfactorily resolved.

Nice to know that in time of need I had someone so great to work with. Staff went out of their way to be supportive. Thank you.

Your office was great. I had no idea where to turn to for help. Unfortunately, the State of Arizona is not nearly as helpful nor as prompt as your office.

Very prompt in returning my call and following thru with a return call. Thank you so very much.

I just wish I had contacted the Aide when the problem happened. It would have benefited my family immensely.

After a great deal of frustration and no returned calls from the Attorney General's Office - They finally got me information. Thank you.

They were all extremely courteous and very instrumental in fixing my problem. They were extremely helpful.

Thank God for you and the service to the people.

## **How We Help People**

The first thing we do is listen to the person's complaint. For some people this is the first time they feel that someone in government actually did listen to them. We then classify our response to their inquiry into three categories:

**1. Coaching.** Quite often, people come to us with problems they could handle themselves, if they only knew how. We try to help these folks by giving them the tools they need to go out and be their own advocates.

Coaching includes:

- ✓ defining issues and rights,
- ✓ identifying options and interests,
- ✓ referring people to the right administrator;
- ✓ explaining the process and helping them get started,
- ✓ identifying and researching information, and
- ✓ developing reasonable expectations.

Coaching is the starting point for all our cases and may be enough to give citizens the information and confidence they need to address their problems on their own.

**2. Informal Assistance.** Sometimes coaching isn't enough and people need a helping hand. Most complaints are the result of miscommunication, a simple mistake, or a glitch that caused the normal administrative process to break down. We try to resolve these problems as quickly and informally as possible. We may call an agency on the citizen's behalf, facilitate a meeting between the citizen and agency, or coordinate an action between agencies. We can also help people gather the documents they need to prove their cases. Assistance focuses on solving the problem, instead of assigning blame.

**3. Investigation.** Some complaints are more serious and don't lend themselves to informal techniques. When the nature of the complaint warrants, we conduct an investigation. If after an investigation we believe the complaint is justified, we work with the parties to try to reach an appropriate solution. Although we have no authority to compel an agency to follow our recommendations, most administrators are more than willing to resolve a legitimate problem once we bring it to their attention. If the complaint is not justified, we go back to the complainant and explain what we found and why we believe the agency acted appropriately. If necessary, we write a report of our findings and recommendations and send it to the agency, legislature, governor, public, and/or attorney general, as appropriate.

## Value

At this point in our report we usually offer examples of the kinds of problems we help resolve so you can get a better understanding of what we do. Simply providing case examples and statistics does not go far enough to reflect the value we provide to citizens and government. So, we selected nine categories that we think will better show the kinds of things we do. The nine categories are:

- Did we resolve a case that involved more than one agency or more than one level of government?
- Did we resolve a case that no one else was able to resolve internally?
- Did we provide an alternative avenue to a more expensive dispute resolution mechanism?
- Did our investigation of a specific complaint shed light on a related matter that was not the subject of a complaint?
- Did our intervention lead to a change in statute or rule?
- Did our intervention lead to a change in an agency's policy, procedure or practice?
- Did we discover a field practice that was not in accordance with the agency's stated policy/procedure?
- Did our intervention result in better service to citizens?
- Did our intervention result in better treatment of state employees?

*We hope the following examples will give you a sense of the value we provide to the people of Arizona.*

## **Case Examples From the Past Year**

**Did we resolve a case that involved more than one agency or more than one level of government?**

**20050094** A mother e-mailed us that the father of her children had been making child support payments to the state of Arizona but they were not coming to her. She wanted our help to see what was happening to the money.

We contacted the Division of Child Support Enforcement and found out they were sending the money to their counterpart in Racine County, Wisconsin. Racine County wasn't dispersing the money because they were waiting on paperwork from Arizona. After we got the paperwork into the right hands, Racine County issued the check.

**20051489** A rancher from Santa Cruz County, whose land was harmed by a forest fire, was upset that no branch of government was responding to his request for records relating to the fire. The man had been in touch with two fire departments, his local sheriff's office and the State Land Department. The rancher asked us to help him obtain a copy of a Fire Dispatch Record after he was told he couldn't see it.

The rancher wanted the record because he was suspicious of the fire. The fire initially was reported to have started due to a controlled burn by another rancher which got out of hand. More recently, the fire was blamed on an illegal alien. The rancher wanted to know what the original dispatch said.

We learned that the State Land Department was the agency who owned the documents and we contacted them for help. The Department ombudsman gave us two contacts who could help the rancher get the records he wanted. Unfortunately, the contacts were out working other forest fires and were not able to respond to the rancher. We went back to the Land Department and the Department ombudsman collected all the public records relevant to the fire for us. We forwarded the records to the complainant and he was very happy that someone had finally responded to him.

**20050617** A City of Phoenix Equal Opportunity Office employee contacted us to see if we could find out how many handicapped license plates and placards were issued in Arizona.

We contacted the Motor Vehicle Division. They researched the issue and found that 400,652 people had placards or handicapped plates. They also gave us a website for Motor Vehicle Division statistics (<http://www.azdot.gov/mvd/statistics/plates.asp>).

We passed the information and the website to the city worker who was very grateful.  
**Did we resolve a case that no one else was able to resolve internally?**

**20051630** A contractor called to complain that the Registrar of Contractors and the Attorney General's Office (AG) did not inform him there was a matter pending against him. Now, the Sheriff was going to take \$1,700 of his property unless he immediately paid a judgment. He paid the \$1,700 to satisfy the Sheriff, but complained to us that this was the second time he had paid it.

We went to the Attorney General's Office who reexamined the case and told us that the man owed the \$1,700 because he lacked a required bond. The contractor said the AG Office must be mistaken and then sent us documentation proving his point. We went back to the AG's Office who concluded that they had erroneously charged the man twice. The AG's Office contacted the contractor, apologized and sent him a refund check.

**20051282** A Kingman area resident, who had obtained permission by Mohave County Supervisors to construct a lake for the use of her community, was upset that she was thwarted in completing this lake by ongoing permit issues with the Arizona Department of Water Resources (ADWR).

The lady filed surface water and dam applications three years ago with ADWR. She said she followed up numerous times communicating with the agency via phone calls, visits and letters. Despite this, ADWR always seemed to come up with more questions and refused to approve the application for surface water rights.

The applicant stated she complied with all requests from ADWR and she was frequently told that ADWR staff would follow up, but they never did. The applicant stated that the final straw was when ADWR employees told her that with ADWR's lack of funding, ". . . there is no telling if you will ever get your surface water rights transferred into your name."

We compiled copies of all correspondence between the applicant and ADWR. We then reviewed each question and point ADWR made with the applicant. We didn't find any unanswered questions. When we went over what we found with ADWR, we learned that, even though ADWR thought they had everything the lady sent, their file was incomplete. We forwarded duplicates of the missing information to complete the ADWR file and they approved the application.

**20051745** A father contacted us because he was having difficulty with the Department of Economic Security - Division of Child Support Enforcement (DCSE). The man said the DCSE Office claimed he accrued an arrears balance for child support amounting to \$11,114.

The father claimed this amount was largely erroneous. He cited a judge's minute entry stating, "IT IS ORDERED that the Respondent shall be given credit in the amount of \$9,000 in direct payments made to the Petitioner through Petitioner's counsel as and for child support." The father claimed DCSE did not give him this

credit. He also said that the court transferred the child custody to him on March 8, 2005, so he didn't owe new child support after that date. The father asked for our assistance as he had been unable to fix the situation in his direct dealings with DCSE.

We contacted DCSE and they corrected their records and credited the man for the amount ordered by the court. DCSE said some of the figures were still not correct and the father would have to go to the court to adjust them by court order. We contacted the man and explained the situation. He was happy that DCSE resolved his complaint and said that he knew he had to get the other problems fixed in court.

**20052733** A concerned mother called because her son had a violation code on his driver's record at the Motor Vehicle Division (MVD), even though he did not have any citations. This was causing his insurance premium to go up. He said he had never been stopped by the police and did not know why the violations were on his record. The mother said she tried, unsuccessfully, to resolve the problem at the Wickenburg office and the main office in Phoenix.

We contacted MVD, and after researching the record they informed us that someone had made an error on the son's record. MVD corrected the mistake and the son's record is now clean. MVD called the concerned mother and apologized for the error.

**20051426** A disabled man was upset and complained that an attorney in the Tucson Attorney General Office treated him unfairly. The disabled man explained that an assistant Attorney General was assigned to assist him in arriving at an agreeable accommodation with the man's condominium association. The attorney met with the association representatives and worked out an agreement. The attorney then sent the disabled man a letter saying the man must contact the attorney within a certain time period or miss the opportunity to accept the deal.

The disabled man stated he did as instructed to no avail. The attorney never answered his phone or responded to his voicemail or letters. The disabled man complained to us that the attorney cancelled the proposed deal stating that the disabled man "had not responded." The disabled man said it was impossible to respond because he learned the attorney was absent from his office during the entire time period.

We contacted the Attorney General's Office and forwarded the complainant's call records to them. The Attorney General's Office reviewed the file and agreed with the disabled man that he had not been treated fairly. They re-opened the case and worked out a new deal.

**Did our investigation of a specific complaint shed light on a related matter that was not the subject of a complaint?**



**20050419** A State Senator sent us a complaint she received from a constituent who was having trouble qualifying for Arizona Health Care Cost Containment System (AHCCCS) and was very worried because she would no longer qualify after the end of the month and had no way to pay for her medications.

We contacted AHCCCS and Family Assistance Administration (FAA). The woman did not qualify at this time because her income was over the limit. But in questioning FAA we found that if the woman provided evidence of ongoing drug costs she might qualify under the "spend down" provisions. We let her know that and advised her to reapply with that additional information.

We also asked her about drug cards. She said she had been turned down for the Copper Rx card because she was not Medicare eligible. We followed up on that and found that the person who gave her that information was wrong. The Governor's office had someone call the complainant and sign her up. They also made sure the customer service line stopped giving out incorrect information.

#### **Did our intervention lead to a change in statute or rule?**

**20051334** We received a call from a woman who is licensed to provide in-home care to Division of Developmental Disabilities (DDD) clients. She had been investigated by Adult Protective Services (APS) because of a complaint against her concerning the care given to one those clients. She believed APS did not do a complete investigation into the most recent complaint against her.

While the investigative work completed by the APS investigators was sufficient, APS did not tell her of the results of the investigation. When we asked them about this, they said that they never inform people about the outcome of their investigations because that would be a breach of confidentiality.

Even though we and an attorney from Legislative Council agreed that statute did not prohibit APS from notifying people of the results of their investigations, APS would not change their policy.

Therefore, we asked the Legislature to address this problem in statute. We recommended they amend statute and require APS to provide written closure letters and also create an appeals process in case someone disputed the APS finding. We also recommended APS report substantiations to an elder abuse registry, as required by statute.

In response to the report, the legislature passed House Bill 2558 and the governor signed it on April 25, 2006. This bill requires APS to notify people of the results of its

investigations, allows for an appeals process, and requires APS to maintain a list of people found to have abused vulnerable adults.

### **Did our intervention lead to a change in an agency's procedure or practice?**

**20050996** A non-custodial parent contacted us because he was getting charged interest on his unpaid child support payments, even though he made them on time. We checked with Division of Child Support Enforcement (DCSE) and learned that they didn't distribute the money to the custodial parent because they couldn't locate her. In situations like this, DCSE holds the money in an account and the computer system automatically adds interest until the custodial parent actually receives the money.

This can harm a non-custodial parent who is actually paying on time, because during the months or weeks where the money cannot be distributed, the non-custodial parent's account is accruing interest and arrears. If the amount becomes large enough, it may even trigger enforcement action against a parent. For example, a non custodial parent could be reported to a credit bureau for failing to pay child support, even though he was paying his support on time.

While we found DCSE has safeguards in place to resolve the problem once a custodial parent is located, there was no guarantee that the computer system will not automatically generate enforcement actions while the money was held in suspense.

Currently, there is an Administrative Review process that allows non-custodial parents to dispute enforcement actions. However, this process would not allow DCSE to override enforcement actions in situations like this.

As a result, we recommended DCSE modify the review process to allow staff to override enforcement actions when they determine the reason the money is being held is because the custodial parent cannot be located and that the non-custodial parent is paying the correct support amount. DCSE agreed to implement this recommendation.

**20052361** A non-custodial parent complained that he had been trying to get the Division of Child Support Enforcement (DCSE) to close his case for almost one year. He alleged that he sent them multiple copies of a court order which terminated his support obligation, but they would not close his case.

We reviewed his DCSE file, interviewed staff and also reviewed a chronology provided by DCSE. We found that the case sat idle for several months because DCSE did not send blank affidavit forms to the custodial parent. We recommended DCSE create a procedure to ensure these affidavits are immediately provided to a custodial parent when they are needed to close a case.

Additionally, the non-custodial parent had called the DCSE central hotline numerous times regarding his case, and each call was referred to a local office. However, no one from the local office followed up on the calls. We learned that the DCSE computer system generates a report of calls that are referred to local offices and whether the worker followed up on them. Unfortunately, many supervisors were not checking the report to see which workers were not making follow-up calls. We recommended that DECS management have supervisors review those reports weekly to make sure workers in local offices are answering referrals.

The non-custodial parent also alleged DCSE would not respond to him or his attorney. Supreme Court rule requires that when a person is represented by an attorney, the agency is allowed to communicate only with that attorney, and cannot work directly with the client. So even though DCSE was correct in not responding to the client directly, they should have responded to his attorney. Therefore, we also recommended refresher training for staff on the policy for working with attorneys.

DCSE agreed to implement our recommendations.

**20050936** We received a call from a non-custodial parent who had received a notice from DCSE that his tax refund would be intercepted to collect back child support. He requested a review of the enforcement action, which is provided for by law. He sent this request to the attention of the Director of the Department of Economic Security (DES) and provided a copy to our office.

We contacted him and let him know that to ensure his request for review was received and processed, he needed to send it to the PO Box designated for Administrative Reviews, not to any other DES address. The man told us that no one had told him that and also complained that the process to request a review was extremely difficult.

As a result, we initiated an investigation into whether DCSE imposed requirements that made it unreasonably difficult for non-custodial parents to request Administrative Reviews.

We identified a number of concerns with the notices of enforcement that are sent to parents, and made five recommendations to ensure that all notices have clear directions on what information the non-custodial parent needs to include in the packet. DCSE agreed to implement the recommendations to make it easier for parents to request this review.

**Did we discover a field practice that was not in accordance with the agency's stated policy/procedure?**

**20051688** A teacher complained that the Arizona State Retirement System (ASRS) incorrectly calculated his salary when he tried to buy credit for previous service.

We contacted ASRS and determined that the process they used to calculate the salary amount was not appropriate to this particular member and not one of the methods provided for in statute. ASRS recalculated the cost using the method in statute to more appropriately reflect the teacher's salary.

Additionally, the cost of purchasing service had increased as a result of a legislative change since the teacher's original request. Because ASRS did not use the correct method at that time, they agreed to honor the lower cost when they did the new calculation.

**20052991** A certified public accountant who represented a small business complained about the Department of Revenue (DOR). She said a representative from DOR was refusing to talk to her, even though she had a Power of Attorney from the business. The accountant wanted to review a payment schedule because DOR had levied the business's account. She felt DOR didn't have any legitimate reason to withhold information from her.

We contacted DOR, they took some information regarding the company and the accountant, confirmed that the accountant did have Power of Attorney, and acknowledged that there should be no reason DOR could not talk to her.

We contacted the company representative, DOR had already taken our advice and contacted the accountant. The issue was in the process of being resolved.

**20052916** A mother who was the subject of a Child Protective Services (CPS) investigation was upset that the CPS caseworker behaved unprofessionally. The mother objected to the caseworker bringing the caseworker's own child into the client's home. The mother stated that the caseworker also cussed numerous times in front of the subject's children. The mother said the caseworker made inappropriate comments such as, "Don't you all believe in birth control?" Lastly, the caseworker threatened to take all the children away if any or the client's children went into the hospital. The mother objected to this because her one daughter must go to the hospital frequently due to chronic encephalitis seizures.

We asked CPS to look into the allegations. A supervisor contacted the mother and confirmed that the case worker acted inappropriately. CPS disciplined the case worker. The mother reported that she is now communicating well with the supervisor and "feels heard" due to our efforts.

**20052641** An Arizona Health Care Cost Containment (AHCCCS) client contacted us because she felt she was mistreated by the Department of Economic Security (DES) office in Avondale. She went in to renew her AHCCCS benefits and was told that the only time she could come in was on Monday afternoon. She told them that she could come in any morning during the week or anytime on a Thursday or Friday,

but she had to work the other times. Unfortunately, the DES office was not at all flexible.

We contacted DES and they made sure this office started following DES policy. Someone from DES called the complainant and rescheduled her appointment for a Thursday.

**20053544** An unemployed worker who believed that he was entitled to unemployment insurance contacted us to say that he was upset with Department of Economic Security (DES) Employment and Rehabilitation staff for concentrating on a prior job instead of the one related to his application. The man was a steel worker and had been fired from one job for a safety violation when he failed to tie himself off appropriately. He knew he was not entitled to benefits from that job. However, subsequent to that job, he worked another steel job until he was laid off. He said that DES kept denying him due to the first job and ignoring what he submitted for the second.

We contacted DES and reviewed the case. DES confirmed the misunderstanding and corrected their records. They now understood that the application the man presented dealt with the second job, not the first and processed his claim.

#### **Did our intervention result in better service to citizens?**

**20053356** A concerned woman called complaining that she lost all her services because the Department of Economic Security (DES), send her notice to an old address, even though she had turned in a change of address form. She indicated that they now wanted her to reapply for all of her services. She said she couldn't wait for her medication because she needed it to be able to function.

We contacted DES. After they reviewed her case, DES management agreed that she had submitted an address change and they could not explain why they sent the letter to her old address. DES corrected the problem and continued her benefits without interruption.

**20053218** A father was concerned that Child Protective Services (CPS) did not list him as the father of his newborn child. This caused CPS to deny him visits with his new baby.

When we looked into this we discovered that the parent aide mistakenly thought that the parent of the child was his brother. It seemed that his brother was the father of the three oldest children but he was the father of the youngest. Once CPS corrected the mistake, he was able to have visits with his new baby.

**20053070** A new resident to Arizona called about problems he was having getting a driver's license. He was born in Puerto Rico, so his birth certificate included his mother's surname. He had never used this as his legal name and had all his IDs, car title and military discharge papers without the surname included. However, MVD issued his license using the name on the birth certificate. When he asked how to change this so his license matched all his other legal documents, he was told by MVD he would have to go to court to change his name.

We contacted MVD. They then reviewed the other documents he had showing his legal name. They reissued him a new license with that name.

**20050193** A mother contacted us because she was not getting court ordered visits with her children. She said Child Protective Services (CPS) would not help.

We contacted CPS and learned that they were having a hard time scheduling a qualified parent aide to supervise the visits. The case worker and supervisor contacted the mother and apologized. They are now making sure she gets her weekly visits and will do it at the CPS office if they have to be sure everyone is safe. We confirmed that they contacted mom to set up the visits.

**20050067** A woman called because she had applied for benefits and received a notice for her phone interview with her work number on it as the number where they would call for the interview. She waited at work on the interview date and never received a call. When she got home, she had a message that they had called her there instead of the number on the notice. She tried to reschedule, but she was given the runaround. Her benefits would be stopped at the end of this month if she could not get an interview.

We contacted the agency and found out that they did make a mistake by calling the home. The supervisor interviewed her right away and reinstated her benefits.

**20052947** An unemployed worker was upset that she had not been approved for unemployment benefits even though more than month had passed since she had applied. She said she had been told that a Department of Economic Security (DES) worker would call her that day for a required interview, but no call came in the designated time period so the lady called DES. She said that after she was put on hold for an hour and a half, the worker who answered refused to interview her. When the lady asked to speak to a supervisor, she had to wait another half hour for that person to get on the phone. She said the supervisor told her he wouldn't help because the DES worker had called and left her a message. That's when she called us, related her story and said DES couldn't have called her because she didn't have voice mail and had not received a call. We told her we would call DES on her behalf.

DES investigated and discovered that their worker had called the wrong number. They promised that they would have someone contact the lady within the next fifteen

minutes and get back to us. We called the lady and told her to expect the call. DES staff got back in touch with us to say they had taken care of the interview and the lady was approved for unemployment benefits.

### **Did our intervention result in better treatment of state employees?**

**20051847** An AHCCCS manager complained about being transferred to a new unit within the agency following a human resources investigation. While she retained the same title and pay grade, she believed the agency treated her unfairly and inappropriately transferred her. She also thought it was unreasonable for AHCCCS to require her to complete the transfer with one business day's notice.

We interviewed a variety of staff at AHCCCS as well as reviewed the employee's personnel file. While the verbal record from supervisors at AHCCCS indicated that they decided to move her because they had concerns about her job performance, there were no indications in her personnel file to support that determination. The manager also told us that her supervisors never explained to her why she was being moved.

As a result, we recommended AHCCCS make certain that all evaluations for the employee were clear and address any issues of concern. We need to tell employees about job performance concerns so that they have the opportunity to correct them. Additionally, if progressive discipline were to become necessary, management needs to have appropriate documentation. We also recommended AHCCCS continue to focus on doing honest evaluations in new supervisor training and provide refresher training for long-time supervisors.

We also found that having the employee transfer positions in one business day was unreasonable. We determined that by doing this so quickly the employee's needs were not met and the department receiving the employee did not have adequate time to prepare.

We recommended AHCCCS re-evaluate this new placement for the employee and as a result AHCCCS did transfer her to another position. We also recommended that wherever the employee works within the agency, AHCCCS needs to determine what skills she needs and provide appropriate training and support to reach those goals as well as outlining performance expectations and provide written feedback.

**20052286** An ill Department of Economic Security (DES) employee was upset that the Arizona Department of Administration (ADOA) and DES had denied her the use of donated annual leave when she had already been qualified and approved for the Family Medical Leave Act (FMLA) for a severely incapacitating medical situation. Two years prior, the lady explained, she suffered a brain aneurism. She recovered and returned to work, but recent surgery caused some nerve trauma that triggered

periodic neurological seizures related to her prior ailment. When they occurred, they would incapacitate her for one to three days at a time. Consequently, her doctor had submitted paperwork stating that the lady had a "seriously incapacitating" condition.

DES denied the lady's request to be eligible for donated annual leave saying that they were relying on R2-5-403(E). The DES paperwork went on to state, "The illness or injury must seriously incapacitate the employee and confine the patient . . . for an extended and continuous period of time of three weeks or more and be confirmed by a licensed health care practitioner."

Although the employee's doctor confirmed that she had a seriously incapacitating illness, DES asserted that when an incident occurred, the employee was not out for a continuous period of three weeks or more.

After checking with an attorney at Legislative Council, we asked DES to reconsider their decision. ADOA and DES did so, and ultimately determined that the employee did qualify for the leave if they considered that her absence stemmed from the original, long term ailment. The employee had been absent for longer than three weeks with the first onset of the ailment. DES authorized the employee to use donated annual leave.



## **CPS Ombudsman's Report**

The bulk of the calls our office receives about Child Protective Services (CPS) are handled informally; we do not develop formal allegations and do not perform an in-depth investigation on them. We operate on the belief that our time is best spent on resolving immediate problems that the parents are having with CPS. Often these immediate problems involve miscommunication. Sometimes that miscommunication, or even lack of communication, is by a CPS worker, and sometimes it is by another party in the case. Our focus is on resolving issues, not necessarily on assigning blame unless it involves a systemic issue for which we can make a recommendation to improve the system overall.

We try to look for equitable solutions to problems or disagreements that arise. For example, if a parent missed a visit due to a CPS worker's error, we recommend to CPS that they provide the parent a make-up visit. Sometimes the problem that occurred can't be undone by the time it is brought to our attention, so we recommend an alternative resolution. For example, when a CPS worker, her supervisor and assistant program manager moved a child out of a foster parent's home to the grandmother's home in another state quicker than the foster parent expected, we encouraged CPS's plan to bring the child back to the area for a good-bye visit with the foster parent. In cases like this, we advocate for a fair process.

In 2005 we investigated and made findings on a variety of issues including foster care overpayments and locating relatives when a child needs placement.

We substantiated a foster parent's allegation regarding an overpayment of foster care payments that DES was requiring her to repay. The foster mother had tried to work with the DES Budget Office that was insisting that she repay the \$3,000 overpayment, but was unsuccessful in getting anyone to listen to her side. The foster mother complained to us that it was unfair that DES was trying to collect the overpayment from her because she had done as CPS instructed. She acknowledged that she affirmatively marked her monthly billing statements that she received from DES for three months after the child left her home, but stated that she had done so because the case manager had instructed the foster mother to hold the bed open in her home. Based on evidence in the case file and interviews with the case managers and supervisors involved, as well as e-mails between the foster mother and her licensing agency, we found that the foster parent had received incorrect instruction from the case managers and had acted on CPS' direction. We recommended that DES forgive the foster care overpayment, which DES agreed to do. We then made sure that the agency communicated their reversal to the foster parent and repaid her the amount of the overpayment she had begun to repay. The agency further agreed with our recommendation to provide additional training to the case workers and supervisors involved in the case. We don't believe this was a systemic problem, but rather a matter of these CPS workers not understanding how their instructions to the foster parents affect the foster care payment system.

We also substantiated a grandfather's allegation that CPS failed to contact him when his newborn granddaughter was taken into CPS custody. The CPS worker failed to review a previous case involving the mother which included the grandfather's contact information until the child had been in a non-relative foster home for six months. By the time we were contacted, six months after CPS had discovered their error and began appropriate steps to consider the grandfather and his wife for placement, the matter of permanent placement for the child was in front of the court. The grandfather and his wife eventually decided it would be best for the child to remain in her foster home.

Even though we have access to the automated CPS case management system in our office and have access to CPS management personnel, we do not have the resources to tackle large issues in a short timeframe. For example, we do not have the ability to gather all the necessary facts to make a recommendation to CPS to return a child to his or her parents, which is what many of our callers request of us immediately following their children's removal. We can, however, handle many issues immediately and there are other avenues in place for families to request help when their children are removed.

For example, a father contacted us and stated that his children should be returned to him because the Temporary Custody Notice he received from CPS was incomplete. We obtained a copy of the TCN from the father and quickly substantiated that the TCN was incomplete. With a phone call, we immediately recommended to CPS that a new, complete TCN be delivered to the parent. The agency did so later that day. We did not, however, recommend that the children be returned to the father. Instead, we advised the father to request a removal review through the DES Family Advocacy Office so that a statutorily-designed team of individuals would review and determine whether the removal was justified. That removal would also be reviewed by the court at the first hearing that is held five to seven days after the removal.

The scope of issues that are brought to our attention reflect the general trends in CPS cases overall, including drug use and specifically methamphetamines. We have seen a switch from CPS requiring parents to complete urinalysis testing to requests for parents to participate in hair follicle testing to determine their current and recent drug use. There are several advantages to using hair testing over urinalysis. Standard hair follicle testing can detect drugs in a person's system for approximately 90 days while urinalysis can only detect drugs in the system for two to seven days after a person has used the drug. Also, with urinalysis, there are several methods that people use to attempt to mask drug detection. With hair analysis, there is no way to mask or change the presence of drugs in a person's system. Collecting a hair sample is also much less embarrassing and intrusive for the participant than collecting a urine sample.

Another trend we are seeing is the use of Team Decision Making (TDM) meetings. These collaborative meetings include the family and their invited guests, CPS, mental health professionals and other professionals involved with the family. In

many cases, the TDM can be held before a child is removed in cases in which CPS has identified some concerns and believe that a removal may be necessary. The team discusses the reasons for CPS involvement and possible alternatives to removal as well as placement and services that can benefit the family. If an emergency removal was necessary, the TDM is held as soon as possible after the removal but before a dependency petition is filed and court hearings take place. We believe TDM meetings are beneficial to everyone involved as it solicits the family's input from the outset. TDMs operate under a fundamental element of mediation: parties are more likely to abide by and honor an agreement that they had a hand in creating. This works in TDMs especially when all parties, the family and involved professionals, are focused on the outcome of safety for the children and the goal of doing what is in the children's best interest.

We encourage CPS' collaboration with families and service providers, such as TDMs, to reach the best long-term outcomes for children and families.

*Ellen Stenson*  
*Assistant Ombudsman-Citizens'*  
*Aide for CPS*

## **The Ombudsman and Staff**

**Patrick Shannahan**, Ombudsman-Citizens' Aide. Pat was appointed Arizona's first Ombudsman-Citizens' Aide on July 1, 1996. He is a former military officer with extensive experience in management, problem solving, strategic planning, and negotiation. Pat's last military assignment was with the Joint Chiefs of Staff where he participated in international arms control negotiations, represented the Joint Chiefs at interagency working groups and helped formulate national security policy. Pat has completed the mediation training program presented by the Attorney General's Office and investigator training through the Council on Licensure, Enforcement and Regulation. He has a bachelor's degree from Arizona State University, a master's degree from Webster University and was a research fellow at the National Defense University in Washington DC. He is active in the United States Ombudsman Association and the Arizona State University Alumni Association.

**Joanne C. MacDonnell** - Deputy Ombudsman. Joanne joined the office in 2005 after serving nearly eight years as the Director of the Corporations Division at the Arizona Corporation Commission. She has experience in management, human resources, problem resolution, customer service, strategic planning and process analysis. Joanne was an active member of the International Association of Commercial Administrators (IACA) and served as a director of its Business Sections Committee. Prior to working in government, Joanne worked in the private sector, serving on the Board of Directors and as a division accountant for FCC Investors, Inc. She also worked in real estate as a licensed realtor associate and real estate appraiser. Joanne has a Bachelor of Science degree from the University of Arizona in Business Administration and Real Estate. She has completed additional training including the Executive Course, procurement, ethics and various risk management courses through Arizona Government University (AZGU); the Leadership Module through Rio Salado College and AZGU; and ombudsman training prescribed by the US Ombudsman Association (USOA). Joanne is a notary. She is active in the United States Ombudsman Association and is a member of the Associated Regulatory Investigators and the American Society of Public Administrators.

**Ellen Stenson**, Assistant Ombudsman for CPS. Ellen became an assistant ombudsman-citizens' aide in July 1997. After five years as a general ombudsman, she now focuses solely on complaints about Child Protective Services. Ellen completed mediation training through the Maricopa County Superior Court Dispute Resolution Alternatives office and mediates small claims cases in the justice courts. She has also completed Ombudsman training sponsored by The Ombudsman Association, and basic and advanced investigator training through the Council on Licensure, Enforcement and Regulation. She is a graduate of Arizona State University.

**Kristin Borns**, Assistant Ombudsman. Kristin joined the office in September 2004. Her prior work experience includes working as a performance auditor for both state agencies and school districts at the Arizona Office of the Auditor General. Kristin has a bachelor's degree from Northern Arizona University and a Master of Public Administration from Arizona State University. Kristin has completed mediation training through the Attorney General's Office and Ombudsman training through the United States Ombudsman Association. She has also completed the Basic Regulatory Investigator Course.

**Carmen Salas**, Assistant Ombudsman. Carmen joined the Ombudsman's office in 2005. She previously worked at the Arizona Corporation Commission for nine years. For three of those years she was the Supervisor in the Corporations Division's Annual Reports Section. For the last two years she was the Management Analyst for the division. Carmen has experience in customer service, process analysis and problem resolution. She received her Bachelor of Science degree in Business Management from the University of Phoenix in October 2005. She has completed additional training including ethics, leadership and various risk management courses through Arizona Government University. She has also completed Ombudsman training sponsored by The United States Ombudsman Association, and basic investigator certification through the Council on Licensure, Enforcement and Regulation. Carmen is fluent in Spanish.

## **CONTACTS BY AGENCY**

<b>Agency</b>	<b>Coaching</b>	<b>Assistance</b>	<b>Investigation</b>	<b>Total</b>
Accountancy Board	1	0	0	1
Acupuncture, Board of Examiners of	1	1	0	2
Administration, Department of	32	13	5	50
Administrative Hearings, Office of	0	0	1	1
Agriculture, Department of	2	0	0	2
AHCCCS	59	30	4	93
Appraisal, Arizona Board of	4	0	1	5
Arizona Commission for the Deaf & Hard of Hearing	1	0	0	1
Arizona Criminal Justice Commission	1	0	0	1
Arizona Exposition and State Fair	2	0	0	2
Arizona State Hospital	1	0	0	1
Attorney General, Office of	35	10	0	45
Banking Department	12	2	0	14
Barbers, Arizona Board of	1	0	0	1
Behavioral Health Examiners, State Board of	11	6	3	20
Boxing Commission	0	0	1	1
Building & Fire Safety, Department of	7	1	1	9
Charter Schools, Arizona State Board of	4	0	0	4
Chiropractic Examiners, State Board of	2	4	1	7
Commerce, Department of	3	0	0	3
Community College, State Board of	1	0	0	1
Compensation Fund	4	2	0	6
Corporation Commission	34	3	2	39
Corrections, Department of	16	4	6	26
Cosmetology, Board of	2	1	0	3
Dental Examiners, Board of	23	10	11	44
DES - Aging & Community Services	88	14	3	105
DES - Benefits and Medical Eligibility	90	77	10	177
DES - Child Protective Services	774	216	38	1028
DES - Child Support Enforcement	82	117	37	236
DES - Children and Family Services	11	2	1	14
DES - Developmental Disabilities	9	16	2	27
DES - Employment and Rehabilitation	30	25	1	56
DES - Other	23	8	2	33
Education, Department of	26	4	1	31
Environmental Quality, Department of	6	2	1	9
Equalization, State Board of	2	0	0	2
Fingerprinting, Board of	1	2	0	3
Funeral Directors & Embalmers, State Board of	4	0	0	4
Game and Fish, Department of	5	0	1	6
Gaming, Department of	1	0	0	1
Governor, Office of	16	1	0	17
Health Services, Department of	93	9	1	103
Health Services, Vital Records Office	16	4	0	20
Housing, Department of	2	0	0	2
Indian Affairs, Arizona Commission of	1	0	0	1
Industrial Commission	44	6	1	51
Insurance, Department of	30	5	2	37
Judicial Conduct, Commission on	3	0	0	3
Juvenile Corrections, Department of	4	1	0	5

Land, Department of	3	1	0	4
Legislature	80	1	0	81
Liquor Licenses and Control, Department of	6	3	0	9
Lottery	0	1	0	1
Massage Therapy, State Board of	8	4	0	12
Medical Board, Arizona	34	11	2	47
Nursing Care Institution Administrators & Assisted Living Managers Examiners Board	1	0	0	1
Nursing, State Board of	14	2	1	17
Occupational Therapy Examiners, Board of	1	0	0	1
Ombudsman	74	1	0	75
Optometry, State Board of	4	3	1	8
Osteopathic Examiners in Medicine and Surgery, Board of	8	4	0	12
Other - Government	365	7	0	372
Other - Private	423	3	0	426
Parks, Department of	1	0	0	1
Peace Officer Standards & Training Board	1	0	0	1
Personnel Board	1	0	0	1
Pharmacy, Board	4	0	0	4
Physical Therapy Examiners, Board of	1	1	1	3
Pioneers Home	1	0	1	2
Podiatry Examiners, State Board of	1	0	1	2
Postsecondary Education, Arizona Commission for	1	0	0	1
Private Post-Secondary Education, Board for	3	0	0	3
Psychologist Examiners, State Board of	1	4	0	5
Public Safety, Department of	12	4	1	17
Racing, Department of	3	1	0	4
Radiation Regulatory Agency	2	0	0	2
Real Estate, Department of	12	4	1	17
Registrar of Contractors	25	8	4	37
Respiratory Care Examiners, Board of	1	0	1	2
Retirement System, Arizona State	13	20	3	36
Revenue, Department of	34	8	2	44
Secretary of State, Office of	14	0	0	14
Structural Pest Control Commission	1	0	0	1
Supreme Court	7	0	0	7
Technical Registration, Board of	6	2	0	8
Tourism, Office of	1	0	0	1
Transportation, Department of	7	3	1	11
Transportation-Motor Vehicle Division	58	58	8	124
Veterans Home	0	1	0	1
Veterans' Services, Department of	4	0	0	4
Veterinary Medical Examining Board	12	0	1	13
Water Resources, Department of	2	1	0	3
Weights and Measures, Department of	1	0	1	2
<b>TOTAL NUMBER OF CONTACTS</b>	<b>2871</b>	<b>752</b>	<b>167</b>	<b>3790</b>

## **REQUESTS FOR INVESTIGATION**

Declined*	8
Complaint withdrawn or resolved during investigation	19
Investigation completed	137
Ongoing	3
<b>TOTAL REQUESTS FOR INVESTIGATION</b>	<b>167</b>

\* The Ombudsman-Citizens' Aide has the statutory authority to decline to investigate a complaint if there is another adequate remedy available; the complaint relates to a matter that is outside the duties of the ombudsman-citizens aide; the complaint relates to an administrative act that the complainant has had knowledge of for an unreasonable time period; the complainant does not have a sufficient personal interest in the subject matter of the complaint; the complaint is trivial or made in bad faith; or the resources of the office of ombudsman-citizens aide are insufficient to adequately investigate the complaint.

## **INVESTIGATIVE FINDINGS**

<b>SUPPORTED/PARTIALLY SUPPORTED</b>		<b>58</b>
Requires further consideration by agency	17	
Other action by agency required	26	
Referred to the legislature for further action	1	
Action was arbitrary or capricious	0	
Action was abuse of discretion	1	
Administrative act requires modification/cancellation	5	
Action was not according to law	4	
Reasons for administrative act required	1	
Statute or Rule requires amendment	0	
Insufficient or no grounds for administrative act	3	
<b>INDETERMINATE</b>		<b>7</b>
<b>NOT SUPPORTED</b>		<b>72</b>
<b>TOTAL COMPLETED INVESTIGATIONS</b>		<b>137</b>



## Disposition of Complaints

